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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

IN RE: BABY FOOD PRODUCTS
LIABILITY LITIGATION

This Document Relates To:

DANIELLE M. GILMORE, on Behalf of H.G, A
MINOR,

Plaintiff,

v.

Campbell Soup Company, Gerber Products
Company, Hain Celestial Group, Inc., Nestlé S.A.,
Plum, PBC, Sun-Maid Growers of California,
Walmart, Inc., and DOES 1 through 10 inclusive

Defendants.

Case No. 24-MD-3101-JSC

MDL 3101

Hon. Jacqueline Scott Corley

**COMPLAINT AND JURY
DEMAND**

Case no.: 3:25-cv-1047

INTRODUCTION

1
2 1. Defendants *knowingly* sold baby food products contaminated with lead, arsenic,
3 mercury, cadmium, and aluminum (collectively “Toxic Heavy Metals”). They did this knowing
4 that Toxic Heavy Metals, when consumed by babies, are known to cause brain damage and
5 neurodevelopmental harm. Thus, to the extent Defendants sold baby food that contained
6 detectable amounts of Toxic Heavy Metals (collectively “Contaminated Baby Food”) those
7 products were defective in their manufacture, design, and labeling. Babies are the most
8 vulnerable segment of the population, and they rely on that food for healthy neurodevelopment.
9 Defendants justify this callous disregard for the welfare of babies because, until recently, there
10 were no regulations governing the presence of Toxic Heavy Metals in baby foods—and,
11 because there were no regulations, they were free to do as they pleased.

12 2. This lawsuit aims to stop Defendants from poisoning infants with Contaminated
13 Baby Food. Baby food *should* be safe. It should *not* be contaminated with Toxic Heavy
14 Metals. Period. By sourcing ingredients from farms that have non-detectable levels of heavy
15 metal (using sufficiently sensitive testing), avoiding certain ingredients all together, and
16 systematically testing and screening finished products for Toxic Heavy Metals *before* the foods
17 are released for consumption, these Defendants would be able to provide baby food products
18 free of detectable levels of Toxic Heavy Metals. And, if some levels are truly unavoidable, or if
19 Defendants believe the identified levels are safe, then, at the very least, Defendants must warn
20 parents/guardians/caregivers about the presence of these Toxic Heavy Metals so they can make
21 informed decisions about what they are feeding their baby. Anything short of proper design,
22 manufacture, and warning, is unacceptable—especially for an industry that touts itself as
23 providing the most important sources of neurodevelopment for the most vulnerable population
24 of society.

25 3. Plaintiff, here, lives with brain injuries and neurodevelopmental harm caused by
26 exposure to the Defendants’ Contaminated Baby Food, which has manifested in a diagnosis of
27 autism spectrum disorder (“ASD”). Plaintiff’s parents were never warned that the Defendants’
28 food contained Toxic Heavy Metals and, thus, were never able to make an informed decision

about whether to feed their babies Defendants Contaminated Baby Foods. The consequences are stark—there is an unprecedented epidemic of ASD and ADHD spreading throughout the American population, driven, in part, by the systematic neurodevelopmental poisoning of infants from these Defendants’ Contaminated Baby Foods.

4. This case seeks to hold the Defendants accountable for their reprehensible conduct by compensating Plaintiff who was harmed by the Defendants’ Contaminated Baby Foods, and ensure each Defendant is punished to deter such conduct in the future.

PARTIES

I. Plaintiffs

5. Plaintiff is a child who lives with brain injuries and neurodevelopmental harm caused by exposure to the Defendants’ Contaminated Baby Food, which has manifested in a diagnosis of ASD.

6. Plaintiff consumed baby foods manufactured and/or sold by Gerber Products Company, Hain Celestial Group, Inc., and Plum, PBC.

7. Plaintiff consumed baby foods sold by Walmart, Inc.

8. The baby foods manufactured by Defendant Gerber and consumed by Plaintiff were manufactured at the direction of, and/or under the control of, and/or according to the specification of, and/or with input from the parent company, Nestlé S.A.

9. The baby foods manufactured by Defendant Plum and consumed by Plaintiff were manufactured at the direction of, and/or under the control of, and/or according to the specification of, and/or with input from the parent company, Campbell Soup Company, and Sun maid Sun-Maid Growers of California.

10. Plaintiff alleges that as a direct and proximate result of Plaintiff’s exposure to Toxic Heavy Metals from consumption of Defendants’ Contaminated Baby Foods, they suffered significant harm, conscious pain and suffering, physical injury and bodily impairment including, but not limited to, brain injury manifesting as the neurodevelopmental disorder ASD, other permanent physical deficits, permanent bodily impairment, and other *sequelae*. Plaintiff’s injuries required medical intervention to address the adverse neurological effects and damage

1 caused by exposure to Toxic Heavy Metals in Defendants' Contaminated Baby Foods.

2 Additionally, Plaintiff has suffered severe mental and physical pain, including but not limited
3 to, pain, mental suffering, loss of enjoyment of life, disfigurement, physical impairment,
4 inconvenience, grief, anxiety, humiliation, and emotional distress and has and will sustain such
5 injuries, along with economic loss due to medical expenses and living-related expenses as a
6 result of lifestyle changes, into the future, as determined by the Trier of Fact.

7 11. The product warnings for the Contaminated Baby Foods in effect during the time
8 period Plaintiff consumed the Contaminated Baby Foods were non-existent, vague, incomplete
9 and/or otherwise inadequate, both substantively and graphically, to alert consumers to the
10 presence of Toxic Heavy Metals in the Contaminated Baby Foods and/or the potentially severe
11 health risks associated with Toxic Heavy Metal exposure in babies. Thus, each Defendant did
12 not provide adequate warnings to consumers including Plaintiff, their parents, and the general
13 public about the presence of Toxic Heavy Metals in the Contaminated Baby Foods consumed
14 by Plaintiffs and the potential risk of the serious adverse events associated with Toxic Heavy
15 Metal exposure in infancy.

16 12. Had Plaintiff or their parents been adequately warned by the Defendants of the
17 potential for exposure to Toxic Heavy Metals from consumption of Defendants' Baby Foods,
18 and/or the potential for such exposure to result in harm, Plaintiff, or their parents would not
19 have purchased, used and/or consumed Contaminated Baby Foods or would have taken other
20 steps to potentially mitigate the harm caused by exposing a baby to Toxic Heavy Metals.

21 **II. Defendants**

22 13. The following are the Defendants listed in this Complaint. In alphabetical order:

- 23 1. Campbell Soup Company ("Campbell")
- 24 2. Gerber Products Company ("Gerber")
- 25 3. Hain Celestial Group, Inc. ("Hain")
- 26 4. Nestlé S.A. ("Nestlé")
- 27 5. Plum, PBC ("Plum")
- 28 6. Sun-Maid Growers of California ("Sun-Maid")

1 7. Walmart, Inc. (“Walmart”)

2 14. Defendant Gerber Products Company (“Gerber”) is a citizen of Michigan and
3 Virginia with its principal place of business located at 1812 N. Moore Street, Arlington,
4 Virginia 22209. Gerber sells Baby Foods under the brand name Gerber. Gerber organizes its
5 products into broad categories of “formula,” “baby cereal,” “baby food,” “snacks,” “meals &
6 sides,” “beverages,” and “organic.” At all relevant times, Gerber has conducted business and
7 derived substantial revenue from its manufacturing, labeling, advertising, distributing, selling,
8 and marketing of baby foods.

9 15. Defendant Nestlé is a citizen of Switzerland, with its principal place of business
10 located at Avenue Nestlé 55, 1800 Vevey, Switzerland. Nestlé is a global food and beverage
11 company with more than 2,000 brands. Nestlé sells baby foods under its subsidiary, Gerber.
12 Employees and scientists at Nestlé trained and set safety standards at Gerber. Indeed, in
13 discovery ongoing in other litigation, Gerber specifically identified scientists at Nestlé to testify
14 on behalf of Gerber regarding the safety of Gerber’s baby food products. Nestlé, thus, has been
15 directly involved in the tortious conduct in the United States and its various states that gives rise
16 to these lawsuits. At all relevant times, Nestlé conducted business and derived substantial
17 revenue through Gerber by manufacturing, advertising, distributing, selling, and marketing baby
18 foods within the judicial districts involved in this litigation.

19 16. The relationship between Gerber and Nestlé was formed in 2007. Prior to that,
20 starting in 1994, Gerber was owned and operated by Novartis, one of the largest pharmaceutical
21 companies in the world. However, in 2007, Gerber was sold to Nestlé for \$5.5 billion.

22 17. For the purposes of this Complaint, unless specifically stated otherwise, Nestlé
23 shall be referred to as “Nestlé.” Further, allegations related to Gerber apply equally to Nestlé, as
24 each Defendant exercised authority and control over the sale, manufacture, and distribution of
25 Gerber’s Contaminated Baby Foods at issue in this MDL.

26 18. The Hain Celestial Group, Inc. (“Hain”) is a citizen of Delaware and New York
27 with its principal place of business located at 1111 Marcus Ave., Lake Success, New York
28 11042. Hain sells baby foods under the brand name Earth’s Best Organics. Hain offers infant

1 and baby formula and foods as well as toddler foods covering products from “organic infant
2 cereal” to “organic snacks for toddlers and kids on the go.” At all relevant times, Hain has
3 conducted business and derived substantial revenue from its manufacturing, advertising,
4 distributing, selling, and marketing of Baby Foods within this judicial district and throughout
5 the United States.

6 19. Defendant Plum, PBC (“Plum”) is a citizen of Delaware and California with its
7 principal place of business located at 6795 N. Palm Ave., 2nd Floor, Fresno, California 93704.
8 Plum sells Baby Foods under the brand name “Plum Organics” and has done so since 2007.
9 Starting in 2013, and until May 3, 2021, Plum was directly controlled and owned by Defendant
10 Campbell. Plum’s products are divided into groups according to the targeted infant or toddler
11 age and/or type of food product. For example, there are five groups designated for the youngest
12 infants: Stage 1 (4+ months old), Stage 2 (6+ months old), Stage 3 (6+ months old), “Super
13 Puffs,” and “Little Teethers.” At all relevant times, Plum has conducted business and derived
14 substantial revenue from its manufacturing, advertising, distributing, selling, and marketing of
15 baby foods within this judicial district and throughout the United States.

16 20. Defendant Campbell Soup Company (“Campbell”) is a Citizen of New Jersey
17 with its principal place of business located at One Campbell Pl., Camden, New Jersey 08103.
18 Campbell sells food and beverages and was the parent company of Plum until May 3, 2021,
19 wherein Campbell sold Plum to Defendant Sun-Maid, a few months after the first heavy metal
20 lawsuits were filed. Campbell sold baby food under the brand name Plum Organics through
21 Plum. Indeed, many of the scientists and researchers that monitored the safety of Toxic Heavy
22 Metals in Plum’s baby foods were directly employed by Campbell or were directly controlled
23 and trained by Campbell agents and employees. For example, it was Campbell’s attorneys that
24 responded to Congressional inquiries about heavy metals in Plum baby foods in 2019.
25 Campbell exercised control over Plum’s baby food selling in the United States until May 3,
26 2021. At all relevant times, Campbell conducted business and derived substantial revenues
27 from its manufacturing, advertising, distributing, selling, and marketing of baby foods within
28 this judicial district and throughout the United States.

1 21. Defendant Sun-Maid Growers of California (“Sun-Maid”) is a citizen of
2 California with its principal place of business located at 6795 N. Palm Ave., Fresno, California
3 93711. Sun-Maid sold baby food through Plum, starting on May 3, 2021. Sun-Maid acquired
4 Plum from Campbell on May 3, 2021. Sun-Maid has since been directly involved with all
5 aspects of the safety and testing of Plum’s baby food products. For example, metal testing is
6 paid for directly and sent directly to Sun-Maid’s scientists and executives, not directly to Plum.
7 All major executive functions related to Plum’s operation were specifically transitioned from
8 Campbell to Sun-Maid. Like Campbell, Sun-Maid has exercised and continues to exercise
9 direct control over the manufacture, sale, and distribution of all Plum baby foods since May 3,
10 2021. At all relevant times, Sun-Maid conducted business and derived substantial revenue from
11 its manufacturing, advertising, distributing, selling, and marketing of Baby Foods within this
12 judicial district.

13 22. For the purposes of this Complaint, allegations related to Plum between 2013
14 and May 3, 2021 apply equally to Campbell, unless otherwise specified, and allegations related
15 to Plum after May 3, 2021 apply equally to Sun-Maid, as each Defendant exercised authority
16 and control over the sale, manufacture, and distribution of Plum’s Contaminated Baby Foods at
17 issue in this MDL.

18 23. Defendant Walmart, Inc. (“Walmart”) is a citizen of Delaware and Arkansas
19 with its principal place of business located at 702 S.W. 8th St. Bentonville, Arkansas 72716.
20 Walmart sells Baby Foods under the private label brand “Parent’s Choice.” The foods are
21 manufactured by co-manufacturers, but are sold under Walmart’s private label using Walmart’s
22 name. Walmart’s Parent’s Choice offers a wide selection of baby foods ranging from “sweet
23 potatoes & corn” to “toddler cookies” and “yogurt bites”. At all relevant times, Walmart has
24 conducted business and derived substantial revenue from its manufacturing, advertising,
25 distributing, selling, and marketing of Baby Foods within this judicial district and throughout
26 the United States.

JURISDICTION AND VENUE

24. Plaintiff(s) file this Complaint pursuant to CMO No. 5, and are to be bound by the rights, protections, and privileges, and obligations of that CMO and other Order of the Court. Further, in accordance with CMO No. 5, Plaintiff(s) hereby designate the United States District Court for the Middle District of Florida as Plaintiff's designated venue ("Original Venue"). Plaintiff makes this selection based upon one (or more) of the following factors (check the appropriate box(es))

☒ Plaintiff currently resides in Bradenton, FL.

☒ Plaintiff purchased and consumed Defendant(s) products in Florida.

☐ The Original Venue is a judicial district in which Defendant _____ resides, and all Defendants are residents of the State in which the district is located (28 U.S.C. 1391(b)(1)).

☒ The Original Venue is a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, specially (28 U.S.C. 1391 (b)(2)):

☐ There is no district in which an action may otherwise be brought under 28 U.S.C. 1391, and the Original Venue is a judicial district in which Defendant _____ is subject to the Court's personal jurisdiction with respect to this action (28 U.S.C. 1391 (b)(3)).

☐ Other reason (please explain): _____

25. As an MDL transferee court, this Court has subject matter and personal jurisdiction to the same extent as the respective transferee courts do. In general, federal courts have subject matter jurisdiction over this action under 28 U.S.C. § 1332(d) because Plaintiffs are citizens of states other than states where Defendants are citizens. In addition, Plaintiff seeks damages in excess of \$75,000, exclusive of interest and costs.

26. This Court has personal jurisdiction over Defendants because their significant contacts related to this litigation in each State make personal jurisdiction proper over any of them.

27. In particular, this Court has personal jurisdiction over Defendants for cases filed in this District insofar as Defendants are authorized and licensed to conduct business in the

1 State of California, maintain and carry on systematic and continuous contacts in this judicial
 2 district, regularly transact business within this judicial district, and regularly avail themselves of
 3 the benefits of this judicial district.

4 28. Additionally, Defendants caused tortious injury by acts and omissions in this
 5 judicial district and caused tortious injury in this district by acts and omissions outside this
 6 district while regularly doing and soliciting business, engaging in a persistent course of conduct,
 7 and deriving substantial revenue from goods used or consumed and services rendered in this
 8 judicial district.

9 29. Nestlé is subject to personal jurisdiction in the relevant judicial districts insofar
 10 as they are authorized and licensed to conduct business in their respective states. Additionally,
 11 these Defendants maintain and carry on systematic and continuous contacts in these judicial
 12 districts, regularly transact business within these districts, and regularly avail themselves of the
 13 benefits of these districts. These Defendants caused tortious injury by acts and omissions in
 14 these judicial districts and by acts and omissions outside these districts while regularly doing
 15 and soliciting business, engaging in a persistent course of conduct, and deriving substantial
 16 revenue from goods used or consumed and services rendered in these districts.

17 **FACTUAL ALLEGATIONS**

18 **I. Rising Concerns Regarding the Presence of Toxic Heavy Metals in Baby Foods**

19 30. In October 2019, an alliance of nonprofit organizations, scientists and donors
 20 named “Happy Babies Bright Futures” (“HBBF”), dedicated to designing and implementing
 21 “outcomes-based programs to measurably reduce babies’ exposures to toxic chemicals,”
 22 published a report investigating the presence of Toxic Heavy Metals in baby foods. The HBBF
 23 Report tested 168 different baby foods sold on the U.S. market and concluded that “[n]inety-
 24 five percent of baby foods tested were contaminated with one or more of four toxic heavy
 25 metals—arsenic, lead, cadmium and mercury. All but nine of 168 baby foods contained at least
 26 one metal; most contained more than one.” Specifically, the HBBF report identified “puffs and
 27 other snacks made with rice flour,” “[t]eething biscuits and rice rusks,” “infant rice cereal,”
 28 “apple, pear, grape and other fruit juices,” and “carrots and sweet potatoes” manufactured by

1 the Defendants as particularly high in Toxic Heavy Metals.

2 31. The results of the HBBF report were consistent with that of the U.S. Food and
3 Drug Administration (“FDA”) which had, in 2017, detected one or more of the four Toxic
4 Heavy Metals in 33 of 39 types of baby food tested. However, the HBBF reported that “[f]or
5 88 percent of baby foods tested by HBBF—148 of 168 baby foods—FDA has failed to set
6 enforceable limits or issue guidance on maximum safe amounts.” The HBBF’s findings were
7 by no means an outlier. Eight months prior to publication of the HBBF report, a study
8 conducted by scientists at the University of Miami and the Clean Label Project “examined
9 lead...concentrations in a large convenience sample of US baby foods.” The study detected
10 lead in 37% of samples.

11 32. Moreover, earlier in 2017, HBBF commissioned a study to evaluate the presence
12 of arsenic in infant rice cereal products sold in the U.S., and the potential risks to children’s
13 neurodevelopment posed by contamination levels. The findings were concerning. The authors
14 concluded that “exposures to arsenic from infant rice cereal approach or exceed existing health-
15 based limits for arsenic levels...leaving little room for additional exposures from other dietary
16 sources, such as snacks, apple juice, and drinking water...Our analyses of arsenic exposures
17 from infant rice cereal during the first year of life suggest that these exposures are not
18 insignificant, and may place infants at risk for adverse health effects.”

19 **II. Congressional Investigation Finds Substantial Presence of Heavy Metals in Baby**
20 **Foods Manufactured and/or Sold by Defendants, Sparking National Outrage**

21 33. On February 4, 2021, and September 29, 2021, respectively, the U.S. House of
22 Representatives’ Subcommittee on Economic and Consumer Policy, Committee on Oversight
23 and Reform, published two reports detailing its findings that Toxic Heavy Metals—including
24 lead, arsenic, mercury, and cadmium—were present in “significant levels” in numerous
25 commercial Baby Food Products. Four companies—Hain, Gerber (Nestlé), Nurture (Danone),
26 and Beech-Nut—produced internal testing policies, test results for ingredients and finished
27 products, and documentation about what the companies did with ingredients and/or finished
28 products that exceeded their internal testing limits. Three companies—Plum (Campbell),

1 Walmart, and Sprout—initially refused to cooperate.

2 34. Congress reported that the data submitted by the companies unequivocally
3 revealed that a substantial number of Defendants’ finished products and/or ingredients used to
4 manufacture the Baby Foods are tainted with Toxic Heavy Metals, namely lead, arsenic,
5 mercury, and cadmium. And, where the Defendants did set internal limits for the amount of
6 metals they allowed in their foods, Defendants routinely flouted their own limits and sold foods
7 that consistently tested above their limits. Congress found the following:

8 35. **Gerber.** Gerber along with Nestlé used high-arsenic ingredients, using 67
9 batches of rice flour that had tested over 90 ppb inorganic arsenic. Nestlé and Gerber used
10 ingredients that tested as high as 48 ppb lead; and used many ingredients containing over 20
11 ppb lead. Nestlé and Gerber rarely test for mercury in their baby foods. In the September 2021
12 follow-up Congressional report, it was revealed that Nestlé and Gerber’s rice cereal tested up to
13 116 ppb inorganic arsenic, and their average rice cereal product contained 87.43 ppb inorganic
14 arsenic, which is even higher than the amount contained in Beech-Nut’s average rice cereal
15 product. While Beech-Nut recalled some of its products and completely discontinued sales of
16 its rice cereal, Nestlé and Gerber have taken no such actions to protect children.

17 36. **Hain (Earth’s Best Organic).** Hain sold finished baby food products
18 containing as much as 129 ppb inorganic arsenic. Hain typically only tested its ingredients, not
19 finished products. Documents show that Hain used ingredients testing as high as 309 ppb
20 arsenic. Hain used ingredients containing as much as 352 ppb lead. Hain used many
21 ingredients with high lead content, including 88 that tested over 20 ppb lead and six that tested
22 over 200 ppb lead. And, Hain does not even test for mercury in its baby food. However,
23 independent testing by HBBF of Hain’s Baby Foods confirm that Hain’s products contain as
24 much as 2.4 ppb of mercury.

25 37. **Plum.** Plum, along with Campbell, refused to cooperate with the Congressional
26 investigation. Instead of producing any substantive information, Campbell provided Congress
27 with a self-serving spreadsheet declaring that every one of its products sold through Plum
28 “meets criteria”, while declining to state what those criteria were. Disturbingly, Campbell

1 admitted that, for mercury (a powerful neurotoxin), Campbell and Plum have *no criterion*
2 whatsoever, stating: “No specific threshold established because no high-risk ingredients are
3 used.” However, despite Campbell and Plum having no mercury threshold, Campbell and Plum
4 still marked every food as “meets criteria” for mercury. Congress noted that “[t]his misleading
5 framing—of meeting criteria that do not exist—raises questions about what [Plum’s] other
6 thresholds actually are, and whether they exist.” This suspicion is confirmed by HBBF’s
7 independent testing which confirms the presence of Toxic Heavy Metals in Campbell and Plum
8 Baby Food, which found excess levels of lead, arsenic, and mercury in Campbell and Plum’s
9 Just Sweet Potato Organic Baby Foods; Just Peaches Organic Baby Food; Just Prune Organic
10 Baby Food; Pumpkin Banana Papaya Cardamom; Apple, Raisin & Quiona Organic Baby Food;
11 Little Teethers Organic Multigrain Teething Wafers-Banana with Pumpkin; and Mighty
12 Morning Bar-Blueberry Lemon-Tots. Furthermore, as discussed further below, based upon
13 information and belief, Plaintiffs submit that Campbell and Plum’s pattern and practice of
14 failing to test ingredients, willingly flouting their own internal standards, and selling products
15 notwithstanding internal acknowledgement of their high metal content, follows that of the other
16 Defendants discussed in this Complaint, and discovery here will further flesh out the extent of
17 Campbell and Plum’s culpable conduct.

18 38. **Walmart.** Walmart refused to cooperate with the House Subcommittee’s
19 investigation into its baby foods products, and as such, the Subcommittee was “greatly
20 concerned” that Walmart “might be obscuring the presence of higher levels of toxic metals in
21 their baby food products.” The Subcommittee noted that independent data from the HBBF
22 Report confirmed that Walmart’s baby foods are indeed tainted. For example, the HBBF Report
23 observed that one of Walmart’s products contained 56.1 ppb total arsenic, and 26.1 ppb cadmium.
24 Another product contained 108 ppb total arsenic, 66 ppb inorganic arsenic, 26.9 ppb lead, and
25 2.05 ppb mercury.

26 39. Following the publication of the Subcommittee Report, Walmart provided
27 documents to the Subcommittee. On September 29, 2021, the House Subcommittee released a
28 subsequent report entitled “New Disclosures Show Dangerous Levels of Toxic Heavy Metals in

1 Even More Baby Foods.” The Subcommittee report addendum described the documents from
2 Walmart as “revealing a concerning lack of attention to toxic heavy metal levels in baby food
3 and an abandonment of its previously more protective standards.” Walmart does not appear to
4 conduct any testing of its baby food products. Walmart sets maximum arsenic and lead levels
5 and asks the manufacturer of its private label to self-certify, but Walmart does not appear to
6 collect any test data or check the accuracy of those certifications. Walmart does not require any
7 mercury or cadmium testing and does not set any standards for mercury or cadmium levels.

8 40. The metal concentrations discussed above and further below surpass the limits
9 allowed by U.S. regulatory agencies. There are no FDA final regulations governing the
10 presence of Toxic Heavy Metals in the majority of Baby Foods with the exception of 100 ppb
11 inorganic arsenic in infant rice cereal and proposed (not yet final) limits for lead in certain baby
12 food categories. To the extent such regulations exist, the quantities of Toxic Heavy Metals in
13 Defendants’ Baby Foods exceed any permissible FDA levels. To be sure, the FDA has set the
14 maximum contaminant levels (“MCL”) in bottled water at 10 ppb inorganic arsenic, 5 ppb lead,
15 and the EPA has capped the allowable level of mercury in drinking water at 2 ppb. However,
16 these limits were created in reference to *adult* exposure, not infants. Compared to these
17 thresholds, the test results of the Defendants’ baby foods and their ingredients are multiple folds
18 greater than the permitted metal levels. Moreover, compounding these troubling findings, the
19 Defendants set internal limits for the presence of Toxic Heavy Metals in their foods that were,
20 themselves, dangerously high and then routinely failed to abide by those inadequate standards,
21 as discussed below.

22 41. As Congress observed, the Defendants have willfully sold—and continue to
23 sell—contaminated Baby Foods notwithstanding their full awareness of these unacceptably high
24 levels of Toxic Heavy Metals in their products.

25 **III. Defendants Engaged in a Pattern and Practice of Selling Contaminated Baby** 26 **Foods and Failed to Reduce Metal Levels**

27 42. Several factors drive the Toxic Heavy Metal contamination of Defendants’ baby
28 foods, all of which are within Defendants’ control.

1 43. *First*, at various times, all Defendants sourced ingredients that contained
2 elevated levels of Toxic Heavy Metals. These ingredients were then used to manufacture the
3 baby foods consumed by Plaintiffs, thereby exposing Plaintiffs to Toxic Heavy Metals that
4 cause brain damage and other neurodevelopmental harm. One way for Defendants to “deal”
5 with this issue involved relegating any testing of Toxic Heavy Metals to suppliers and co-
6 manufacturers, who were required to certify that Toxic Heavy Metals were below a certain
7 threshold. Defendants would audit those results, discover that the reported certifications were
8 false or inaccurate, and then take no action to stop the use of those ingredients or finished
9 products.

10 44. *Second*, some Defendants implemented dangerously high internal limits
11 (“specifications” or “specs”) for the maximum level of Toxic Heavy Metals that Defendants
12 allowed in the baby foods. Such high limits—untethered to any consideration of the low levels
13 at which metals are capable of damaging babies’ brains—allowed Defendants to source and use
14 ingredients that contained elevated Toxic Heavy Metals to manufacture the baby foods
15 consumed by Plaintiffs. In the highly competitive and lucrative baby food market, using
16 contaminated ingredients allows each Defendant to retain greater market share.

17 45. *Third*, some Defendants failed to implement *any* internal specifications for the
18 amount of Toxic Heavy Metals allowed in ingredients or finished baby foods. By simply not
19 looking at the issue, certain highly contaminated ingredients and finished products were allowed
20 to be used and sold to consumers. This would happen notwithstanding the Defendants’ specific
21 knowledge of the risk of Toxic Heavy Metals and their presence in ingredients and finished
22 products.

23 46. *Fourth*, Defendants did not routinely adhere to their own internal metal
24 specifications or standards, allowing contaminated ingredients and finished products to be
25 released as “exceptional releases” or other simpler terminology. This resulted in ingredients
26 being used and baby foods manufactured and sold that contained levels of Toxic Heavy Metals
27 far higher than what was internally set by Defendants. In other instances, Defendants would
28 test products that had been put on the market after-the-fact, learn about the products containing

1 extremely high levels of Toxic Heavy Metals, and then take no action to recall the product or
2 warn consumers about the issue.

3 47. *Fifth*, upon information and belief, Defendants' manufacturing practices also
4 contributed to contamination. For example, the water used at some of the facilities where the
5 baby foods were manufactured contained Toxic Heavy Metals which, in turn, ended up in the
6 finished baby food product sold for consumption by babies.

7 48. **Gerber.** Gerber and Nestlé tested ingredients and, occasionally, finished
8 products. However, while Gerber and Nestlé were the only Defendants to test both ingredients
9 and finished products with any regularity, they set high heavy metal limits that rendered their
10 food unsafe. For baby foods generally, between 2012 and 2019, Gerber and Nestlé set a limit of
11 40 ppb for lead, 20 ppb for arsenic, and 10 ppb for mercury. For infant rice cereal, between
12 2012 and 2017, Gerber and Nestlé set a lead limit of 100 ppb, with a "target" of 50 ppb in 2016
13 and 2017. Between 2018 and 2019, Gerber and Nestlé set a lead limit for 50 ppb. For arsenic
14 in rice cereal, between 2012 and 2015, Gerber and Nestlé did not have a limit, merely a target of
15 100 ppb. Then, between 2016 and 2018, it set the arsenic limit at 100 ppb. By 2019, Gerber
16 and Nestlé increased the arsenic limit to 130 ppb for cereals with 90% rice (and kept the limit at
17 100 ppb for other cereals). For snack foods, Gerber and Nestlé had a lead limit of 150 ppb
18 between 2012 and 2014. It was reduced to 100 ppb in 2016 and 2017, and then went down to 50
19 ppb in 2018 and 2019. There was no limit for arsenic in snack food prior 2016, just a "target"
20 of 100 ppb. Then a 100-ppb arsenic limit was set starting in 2016. For both infant cereal and
21 snacks, Gerber and Nestlé imposed a 30-ppb limit for mercury in infant cereal between 2012
22 and 2016, and reduced it to 10 ppb from 2017 onward. With these exceptionally high limits,
23 Gerber and Nestlé sold baby foods that were dangerous for infant consumption. They did this
24 knowingly.

25 49. Gerber and Nestlé would also audit and re-test Toxic Heavy Metal results
26 submitted by suppliers, and find that the certification from suppliers were incorrect or false.
27 Gerber and Nestlé would nonetheless use the certified results and release products despite the
28 ingredients not meeting specifications or being safe for infant consumption.

1 50. Gerber and Nestlé often used high-arsenic ingredients, for example, using 67
2 batches of rice flour that had tested over 90 ppb inorganic arsenic. Furthermore, Gerber and
3 Nestlé regularly sold baby food products testing over 100 ppb arsenic, at times reaching 116
4 ppb, and their average rice cereal product contained 87.43 ppb inorganic arsenic. Indeed, this is
5 why Congress noted that “Gerber’s organic rice cereal is dangerous...” In other instances,
6 Gerber permitted as much as 300 ppb of arsenic in the rice flour ingredient used to manufacture
7 its U.S. baby foods, notwithstanding the fact that Gerber often implemented stricter standards
8 for baby foods sold in other countries.

9 51. Gerber’s baby foods are also contaminated with elevated levels of lead. Gerber
10 and Nestlé used ingredients that tested as high as 48 ppb lead and used many ingredients
11 containing over 20 ppb lead. Furthermore, Gerber and Nestlé sold baby food products testing at
12 and/or above 50 ppb of lead. Indeed, Gerber and Nestlé have historically permitted as much as
13 150 ppb lead in their baby food products. Although Gerber and Nestlé were fully aware that it
14 was very feasible to source lower-lead ingredients, they proceeded to use high-lead ingredients
15 in their baby foods. Gerber and Nestlé rarely test for mercury in their baby foods. This is
16 notwithstanding the fact that mercury is known to contaminate ingredients such as rice and
17 poses a severe risk to babies’ brain development.

18 52. The February 4, 2021 Congressional Report found Gerber carrots tested for
19 cadmium at levels above 5 ppb, with some containing more than 87 ppb of cadmium. These are
20 exceptionally high levels.

21 53. Moreover, compounding these troubling findings, Gerber and Nestlé historically
22 only tested certain ingredients of its baby food products and only occasionally tested the
23 finished products consumed by babies. It was not until recently that Gerber and Nestlé started
24 to implement finished product testing on a more regular basis.

25 54. Gerber and Nestlé have known since at least the 1990s that inorganic arsenic was
26 neurotoxic and caused developmental issues. Despite this knowledge, in 2012, when Gerber’s
27 infant rice cereal was on the front page of a Consumer Report article on arsenic, a Gerber
28 spokesperson told the public that arsenic in baby food posed no health risk.

1 55. **Hain.** Hain did not test its baby food products for heavy metals until 2020 (rice
2 cereal) and 2021 (other baby food). Instead, Hain tested some ingredients used in their foods
3 (but not all ingredients). Ingredients were required to meet specific specifications for each
4 specific ingredient. Those specifications, however, would change wildly without explanation.
5 For example, prior to August 2014, Hain's lead specification for Oat Flour was 200 ppb. Then
6 it was reduced to 50 ppb for four months, went back up to 100 ppb for three months, went back
7 up to 200 ppb for a month, came down to 20 ppb for seven months, went to 25 ppb for six
8 months, and then went back to 200 ppb for the next fourteen months. When asked about this
9 seemingly chaotic shifting of specifications, Hain could not explain it.

10 56. Hain would routinely accept ingredients that tested above specifications and use
11 them in baby foods anyway. These "exceptional" releases were made because there were no
12 FDA regulations specifically preventing them.

13 57. Because Hain only tested ingredients, and not finished products, they would
14 underestimate metal exposure. For example, in August 2019, the FDA did what Hain had
15 refused: it actually tested Hain's baby food products for heavy metals. FDA sampled Hain's rice
16 cereal and found levels in excess of 100 ppb. FDA tested 20 of Hain's rice cereal products (all
17 manufactured by Beech-Nut for Hain) sold between September 2017 and June 2018, and found
18 9 samples in excess of 100 ppb of inorganic arsenic, and 16 (80%) above 90 ppb. The FDA
19 raised concern about Hain's failure to test finished product, and asked Hain to conduct an
20 investigation. These concerns about Hain's rice cereal were independently confirmed by HBBF,
21 where they found 113 and 107 ppb of inorganic arsenic (138 and 126 ppb of arsenic) in those
22 same products. As a result of the FDA-ordered investigation, Hain learned that its rice cereal
23 exceeded FDA arsenic levels because Hain never accounted for the arsenic added to the product
24 from the vitamin premix. Hain discovered that the vitamin premix specification was 3,000 ppb
25 for arsenic and 4,000 ppb for lead. They realized that their products needed to be tested in
26 finished form to actually estimate the levels of heavy metals in their foods. Hain also realized
27 that the use of brown rice was contributing to the high levels of arsenic, so, thereafter, they
28 started using white rice (as opposed to brown rice) to reduce arsenic levels and began testing

1 rice cereal regularly.

2 58. Hain's inept process of monitoring the safety of their baby foods resulted in
3 products being sold that contained Toxic Heavy Metals, and this was done with full knowledge
4 of the risks. When asked why Hain did not warn consumers of the Toxic Heavy Metals in their
5 foods, Hain responded that if they warned, people would not buy their products.

6 59. **Plum.** Plum was founded in 2007 and has sold a wide variety of baby food
7 products under the name Plum Organics since that time. Plum was owned and controlled by
8 Campbell from roughly 2013 until roughly May 2021 when Plum was sold to Sun-Maid.

9 60. Despite Plum's public facing statements that "little ones deserve the very best
10 food from the very first bite" and despite understanding that environmental toxins like heavy
11 metals can cause neurodevelopmental disorders in children, Plum and Campbell/Sun-Maid did
12 very little to ensure that the Plum baby food products marketed for consumption by children are
13 not contaminated with dangerous levels of heavy metals. For example, though Plum and
14 Campbell/Sun-Maid knew that the heavy metal contents of the ingredients used in its products
15 varied by growing region and supplier, they did not undertake an effort to source ingredients
16 with the lowest amount of heavy metals available. And, despite knowing that certain
17 ingredients carry a higher risk for heavy metal contamination, Plum and Campbell/Sun-Maid
18 did not reformulate their products to ensure that they were being made with the lowest
19 achievable amount of heavy metals.

20 61. Plum and Campbell failed to set limits on the amount of heavy metals that could
21 be present in Plum's finished baby food products. From 2007 to at least April 2021, they did
22 not set *any* limits for the amount of lead, arsenic, mercury, cadmium, or aluminum that their
23 finished products could contain.

24 62. Plum and Campbell also failed to set limits on the amount of heavy metals that
25 could be present in the ingredients used in Plum's baby food products. Prior to 2016, they did
26 not set limits for the amount of heavy metals that could be present in the ingredients used in
27 Plum products. When Plum and Campbell did begin to implement heavy metal limits for Plum
28 ingredients (in or around 2017), it did so only for lead, arsenic, and cadmium. As of April

1 2021, Plum and Campbell still had no limits for the amount of mercury and aluminum that
2 could be in the ingredients used in their baby food products.

3 63. When Plum did set some heavy metal limits (for lead and arsenic for ingredients
4 only) it set those limits several times in excess of what was achievable for most ingredients.
5 For example, despite certain fruits and vegetables normally containing less than 5 ppb lead or
6 arsenic, Plum set the heavy metal limits for all Plum ingredients for lead and arsenic at 100 ppb.
7 And, even still, despite setting these limits dangerously high, Plum and Campbell/Sun-Maid still
8 utilized ingredients that tested in excess of those limits.

9 64. Plum and Campbell/Sun-Maid also conducted very little oversight of their co-
10 manufacturers to ensure that the heavy metal limits for ingredients used in Plum products were
11 adhered to. For example, prior to 2017, Plum and Campbell did not require the ingredient
12 suppliers they contracted with to submit heavy metal testing data but instead relied on supplier
13 assurances that the ingredients did not contain heavy metals and/or complied with all
14 government regulations regarding heavy metals. When Plum and Campbell/Sun-Maid did
15 begin to require testing on some of the ingredients used in its products for lead and arsenic,
16 those efforts were scattershot and did not extend to all lots of all ingredients used in Plum baby
17 food products. Where verification testing was conducted on ingredients, it was often done in an
18 unaccredited lab.

19 65. Despite not having a comprehensive ingredient testing program to ensure that
20 Plum food marketed for babies was not contaminated with Toxic Heavy Metals, Plum and
21 Campbell/Sun-Maid also did not conduct heavy metal testing on Plum products prior to sale.
22 Plum only first conducted finished product testing in the wake of public reports that exposed
23 Plum baby food products as being contaminated with dangerous levels of heavy metals. Upon
24 information and belief, no rigorous heavy metal testing program on ingredients and finished
25 product was ever implemented and Plum and Campbell/Sun-Maid continued and continue to
26 sell baby food contaminated with elevated levels of heavy metals without first testing to ensure
27 their safety.

28 66. **Walmart.** Walmart sold baby food under a “private” brand called “Parent’s

Choice”, which was manufactured by a different supplier but branded, promoted, and sold as a Walmart product. Walmart did not test it for Toxic Heavy Metals whatsoever. Instead, Walmart required certain specifications be met for the products provided by its suppliers, which included some limits of heavy metals. These specifications were not enforced in any way. Walmart did not require the submission of testing from suppliers, nor did it do any of its own testing.

67. The only efforts to police Toxic Heavy Metals in their Parent’s Choice baby food involved generic specifications for lead and arsenic—there were no other specifications or limits for other Toxic Heavy Metals—which for most baby food products resulted in there being no limits. The following chart reflects Walmart’s Toxic Heavy Metal specifications prior to December 2018.

Type of Food	Lead	Arsenic	Mercury	Cadmium	Aluminum
Dry baby food with no juice or nectar	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
Dry baby food with juice or nectar	50 ppb	23 ppb	<i>None</i>	<i>None</i>	<i>None</i>
Wet baby food with no juice or nectar	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>
Wet baby food with juice or nectar	50 ppb	23 ppb	<i>None</i>	<i>None</i>	<i>None</i>
Yogurt baby food products	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>	<i>None</i>

68. In December 2018, Walmart changed its specification to 100 ppb of inorganic arsenic for all dry baby foods, making the products even less safe. Thus, for the vast majority of Walmart’s baby food products, there was never a limit for any Toxic Heavy Metals.

IV. Defendants Abandon Efforts to Reduce Metal Levels in Baby Foods

69. In 2019, as concerns grew over contamination of certain baby foods on the U.S. market, a consortium of the Baby Food Manufacturers comprised of Defendants Plum/Campbell, Gerber, and Hain, as well as certain interested third party groups such as the Environmental Defense Fund (“EDF”) and HBBF, were formed with the intention “of reducing heavy metals in young children’s food.”

70. The consortium was named the Baby Food Council (“BFC”). The BFC involved the sharing of common testing data on the levels of metal contamination of Defendants’ baby

1 foods, a grant to Cornell University to further study the issue, and a proposed “voluntary Baby
2 Food Standard to limit the amounts of heavy metals in baby food.” The BFC specifically
3 recognized the risk of neurodevelopmental harm caused by Toxic Heavy Metals to the
4 developing brain of infants and that there were no safe levels of exposure.

5 71. The Baby Food Standard “would have provided companies with a common
6 framework for progressively reducing contaminants by regularly testing products and
7 improving management practices, and for being transparent with consumers about the safety of
8 their products.”

9 72. After several years of negotiations and discussions, including a proposed system
10 for testing, the EDF and HBBF proposed voluntary limits of 1 ppb for lead. The baby food
11 companies, however, rejected the proposal outright. Participation in the BFC was little more
12 than a façade—they had no intention of self-regulating their products as it related to Toxic
13 Heavy Metals.

14 73. This led EDF and HBBF to leave the BFC in protest in 2021. They explained
15 their departure publicly, noting that Defendants “all decided to backpedal on this project—even
16 though the standard was designed to protect babies’ brain development” and provide adequate
17 notice to consumers regarding the presence of Toxic Heavy Metals on Baby Food labeling.
18 EDF explained:

19 EDF cofounded the Council because we believed there was a shared commitment
20 to reduce levels of lead, arsenic and cadmium in baby food products to better
21 protect children’s developing brains from these toxins ... Unfortunately, the
22 companies chose to cease the Council’s development of a voluntary Baby Food
23 Standard that it had begun in late 2020. The Standard would have provided
24 companies with a common framework for progressively reducing contaminants
25 by regularly testing products and improving management practices, and for being
26 transparent with consumers about the safety of their products. Negotiations failed
27 to provide an alternative approach that EDF felt was sufficient to drive down
28 levels of lead, arsenic and cadmium in baby food.”

74. HBBF explained:

Healthy Babies Bright Futures is focused on tangibly reducing neurotoxic
exposures to babies. The baby food companies’ refusal to jointly set limits for
heavy metals in baby food has shown that the Council will no longer be the
powerful mechanism for this important work that the initial plans had promised.
The baby food companies’ decision to stop progress on a voluntary standard for

heavy metals in baby food is a disappointment ... What started as dedication has turned into delay and intention has become inaction. So HBBF has decided to put our effort into other initiatives that will move the needle on this important issue.

75. In short, the Defendants opted to continue “self-regulating,” the same self-regulation which exposed—and continued to expose—Plaintiffs to Toxic Heavy Metals in Defendants’ baby foods.

22. The Dangers of Toxic Heavy Metals and Metal Exposure Through Consumption of Baby Foods

76. According to the World Health Organization (“WHO”), Toxic Heavy Metals, specifically lead, arsenic, mercury, and cadmium pose a “major public health concern” for children. The Occupational Safety and Health Administration (“OSHA”) has warned that these metals “may build up in biological systems and become a significant health hazard.” Indeed, the Department of Health and Human Services’ Agency for Toxic Substances and Disease Registry (“ATSDR”) ranks arsenic as number *one* among substances present in the environment that pose the most significant potential threat to human health, followed by lead (second), mercury (third), and cadmium (seventh).

77. The threat presented by Toxic Heavy Metals to children’s health is widely shared by the global regulatory and scientific community. For example, the FDA has set an Interim Reference Level (“IRL”) of 2.2 micrograms/day for lead exposure through baby food products. That is the amount of lead exposure at or above which the agency considers associated with adverse neurodevelopmental effects in babies. The FDA, in its guidance documents for inorganic arsenic and lead in baby food products has repeatedly acknowledged the dangers of heavy metals to the neurodevelopment of infants.

Even low lead exposure can harm children’s health and development, specifically the brain and nervous system. Neurological effects of lead exposure during early childhood include learning disabilities, behavior difficulties, and lowered IQ. Lead exposures also may be associated with immunological, cardiovascular, renal, and reproductive and/or developmental effects...Because lead can accumulate in the body, even low-level chronic exposure can be hazardous over time...Even though no safe level of lead exposure has yet been identified for children’s health, the IRL serves as a useful benchmark in evaluating the potential for adverse effects of dietary lead. In particular, FDA is focused on the potential for neurodevelopmental effects from lead exposure, as review of the scientific

1 literature indicates that *such adverse effects of lead consistently occur at a blood*
2 *lead level associated with FDA's IRL for children.* (emphasis added).

3 78. As one recent study observed, “[t]he implications of heavy metals with regards
4 to children’s health have been noted to be more severe compared to adults. The elements’
5 harmful consequences on children health include mental retardation, neurocognitive disorders,
6 behavioral disorders, respiratory problems, cancer and cardiovascular diseases. Much attention
7 should be given to heavy metals because of their high toxicity potential, widespread use, and
8 prevalence.” Children and, even more so, babies have higher exposure to metals compared to
9 adults because they consume more food in relation to their body weight and absorb metals more
10 readily than adults by 40 to 90%.

11 79. The mechanisms needed to metabolize and eliminate heavy metals are
12 comparatively undeveloped in childhood, with babies having weaker detoxifying mechanisms
13 and poorer immune systems than adults. For example, liver pathways that in adulthood
14 metabolize absorbed arsenic do not mature until mid-childhood; un-excreted arsenic thus
15 continues to circulate and is deposited in other organs. According to Linda McCauley, Dean of
16 the Nell Hodgson Woodruff School of Nursing at Emory University, who studies environmental
17 health effects, “[n]o level of exposure to these [heavy] metals has been shown to be safe in
18 vulnerable infants.”

19 80. Thus, “the major windows of developmental vulnerability occur during infancy
20 and early childhood due to continuing brain development after birth.” In short, even small
21 amounts of exposure to Toxic Heavy Metals can have devastating health outcomes for babies
22 and children.

23 **VI. Exposure to Toxic Heavy Metals Has Been Consistently Associated with**
24 **Neurodevelopmental Harm, i.e., Autism and ADHD in Pediatric Populations**

25 81. It is well-known that exposure to Toxic Heavy Metals in early life can interfere
26 with neurodevelopment at exceedingly low levels of exposure. And, one of the ways in which
27 such interference with neurodevelopment can present in a child is in the form of the
28 neurodevelopmental disorders ASD and ADHD. As the U.S. Centers for Disease Control

1 observed in its 2020 Toxicological Profile for Lead, at just ≤ 10 $\mu\text{g/dL}$: “The following
2 neurobehavioral effects in children have been associated with [lead]: “Altered mood and
3 behaviors that may contribute to learning deficits, including *attention deficits, hyperactivity,*
4 *autistic behaviors,* conduct disorders, and delinquency.” (emphasis added). Likewise, the NIH
5 states: “prenatal and early childhood exposure to heavy metals...may be linked to autism
6 spectrum disorder.”

7 82. Such conclusions have likewise been reached by a consortium of the country’s
8 leading epidemiologists, pediatricians, and medical groups, noting that Toxic Heavy Metals
9 such as lead and mercury are “prime examples of toxic chemicals that can contribute to
10 learning, behavioral, or intellectual impairment, as well as specific neurodevelopmental
11 disorders such as ADHD or autism spectrum disorder.”

12 83. Multiple studies, reviews, and meta-analyses conducted throughout various parts
13 of the world over the last decade have consistently observed that early life exposure to heavy
14 metals can cause brain injury and, specifically, brain injury which manifests as ASD.

15 84. For example, four meta-analyses published in 2014, 2017, 2019 and 2020,
16 respectively, observed consistent associations between exposure to arsenic, cadmium, and
17 mercury and ASD in children; with the authors in all three studies recommending – based on
18 the data – that exposure to such metals in children be reduced as much as possible, and one of
19 the study authors specifically concluding that “Results of the current meta-analysis revealed that
20 mercury is an important causal factor in the etiology of ASD.”

21 85. In a recent 2017 NIH-funded prospective observational study, the authors
22 examined the risk of ASD outcome in twins based on their respective body burden of lead. The
23 study concluded in no uncertain terms that “prenatal and early childhood disruption (excess or
24 deficiency) of multiple metals during critical developmental windows is associated with ASD,
25 and suggests a role for elemental dysregulation in the etiology of ASD.”

26 86. Similarly, a large, prospective study from 2016 in Korean school children
27 observed that low levels of lead exposure in early life are associated with autism, the authors
28 specifically concluding: “even low blood lead concentrations...are associated with more autistic

1 behaviors... underscoring the need for continued efforts to reduce lead exposure.”

2 87. Studies have repeatedly observed strong associations between exposure to
3 cadmium and aluminum and neurodevelopmental disorders such as ASD, as observed by a
4 recent study: “Environmental exposure to...cadmium (Cd)... and aluminum (Al) has been
5 associated with neurodevelopmental disorders including autism spectrum disorder (ASD).” For
6 example, a study from 2014 evaluated the body burden of lead, cadmium, and arsenic in
7 children with autism compared to controls and noted that, in addition to lead and arsenic, “our
8 study demonstrated elevation in the levels of...cadmium...in a child with autism,” while an
9 earlier study noted that “autism may be associated with significant alterations of some rare
10 element concentrations, including Cd...” Such results have been confirmed by meta-analyses
11 which “show *significant associations* between ASD and the metals Al [and] Cd.” And, such
12 earlier data is further supported by recent research, with a 2023 systematic review and meta-
13 analysis concluding that “compared with the healthy control group, the ASD group had higher
14 concentrations of Cd, Pb, arsenic, and Hg. These 4 heavy metals play different roles in the
15 occurrence and progression of ASD.”

16 88. Repeated associations between early life Toxic Heavy Metal exposure and ASD
17 have also been observed during the pre-natal timeframe, lending further strength to the findings
18 of post-natal studies. For example, in a 2021 study by Skogheim and colleagues, the authors
19 prospectively assessed the relationship between pre-natal metal exposure in various biomarkers
20 and autism risk. The study concluded that “[r]esults from the present study show several
21 associations between levels of metals and elements during gestation and ASD and ADHD in
22 children. The most notable ones involved arsenic...mercury...and lead. Our results suggest that
23 even population levels of these compounds may have negative impacts on neurodevelopment.”

24 89. Similarly, in a study by the research group assessing the New Hampshire Birth
25 Cohort, the authors evaluated the neurotoxic effects of heavy metals during various stages of
26 pregnancy and concluded: “Our results support the hypothesis that exposure to...As in mid to
27 late pregnancy may be neurodevelopmentally harmful.”

28 90. Such results have been replicated in studies throughout the world, including

1 China, Korea, the U.S., Europe, and Egypt, implicating arsenic, mercury, and lead in pediatric
2 diagnoses of autism and autistic behaviors, with a 2018 Chinese study concluding: “[t]he results
3 of this study are consistent with numerous previous studies, supporting an important role for
4 heavy metal exposure, particularly mercury, in the etiology of ASD.” Indeed, a 2015 Egyptian
5 study noted “[e]nvironmental exposure to these toxic heavy metals, *at key times in development*,
6 may play a **causal** role in autism.” (emphasis added).

7 91. Exposure to Toxic Heavy Metals, specifically lead, has also been repeatedly
8 associated with the development of ADHD in children, as demonstrated by numerous studies.

9 92. No fewer than four large meta-analyses, conducted in four different continents
10 (North America, South America, Europe and Asia), and some employing a cross-sectional
11 design, have observed a consistent association between various metals and ADHD in children.
12 Indeed, the authors of the meta-analysis from Spain noted that “the evidence from the studies
13 allowed us to establish that there is an association between lead and ADHD and that even *low*
14 *levels of lead raise the risk.*” (emphasis added).

15 93. The findings from the meta-analyses have been replicated in several Chinese
16 studies from 2006, 2014, and 2018, respectively. Notably, the authors of the 2014 Chinese
17 study observed that “[e]xposure to lead even at low levels correlates with attention-
18 deficit/hyperactivity disorder (ADHD). However, lead-contaminated environments are often
19 *contaminated with other heavy metals that could exacerbate lead-induced ADHD.*” (emphasis
20 added). This is particularly relevant—and disturbing—as children who consumed Defendants’
21 baby foods were repeatedly exposed to a cocktail of Toxic Heavy Metals that, synergistically,
22 further increased their risk of developing ADHD.

23 94. Moreover, studies have observed a dose-response relationship between exposure
24 to Toxic Heavy Metals and ADHD, as demonstrated by the 2016 Spanish study Donzelli, *et al.*
25 Another 2016 cross-sectional study from Spain was conducted on 261 children aged 6-9 to
26 examine the association between exposure to arsenic and ADHD. After adjusting for potential
27 confounders, the authors observed a dose-response relationship between urine arsenic levels and
28 inattention and impulsivity scores, concluding that “[urine arsenic] levels were associated with

1 impaired attention/cognitive function, *even at levels considered safe*. These results provide
2 additional evidence that postnatal arsenic exposure impairs neurological function in children.”
3 (emphasis added).

4 95. The fact that such results, and many more, have been observed in multiple
5 studies, conducted by different researchers, at different times, in different parts of the world, in
6 children of multiple ages, utilizing different study methods (prospective, case-control and cross-
7 sectional epidemiological analyses) and measuring a variety of end-points (including hair,
8 blood, and urine), strongly supports a causal relationship between exposure to Toxic Heavy
9 Metals and the development of ASD and ADHD in children.

10 **VII. Defendants’ Baby Foods Contain Toxic Heavy Metals Capable of Interfering with** 11 **Early Neurodevelopment**

12 96. As illustrated above, Toxic Heavy Metal exposure is capable of inflicting
13 damage to the developing brain at extremely low doses. And, upon information and belief,
14 Defendants manufactured and sold baby foods containing Toxic Heavy Metals that can, under
15 certain circumstances (based upon the genetic susceptibilities, medical history, and other factors
16 of the exposed child) interfere with a baby’s neurodevelopment sufficient to cause conditions
17 such as ASD and ADHD.

18 97. As an initial matter, the study commissioned by HBBF and discussed above
19 specifically evaluated the propensity for arsenic exposure through consumption of infant rice
20 cereal to impact early life neurodevelopment. Following analyses of the levels of arsenic
21 exposure from consumption of infant rice cereal, the authors concluded “that high consumers of
22 infant rice cereal (i.e., infants eating three servings per day) eating products currently on the
23 U.S. market would have a daily arsenic intake of 0.35-0.67 µg/kg bw/day...per the Tsuji et al.
24 (2015) lower-bound estimate for an RfD for the neurodevelopmental effects of arsenic (0.4
25 µg/kg bw/day), high consumers of infant rice cereal may also be at risk for this endpoint. Even
26 in average consumers of infant rice cereal (i.e., one serving per day), our estimates of arsenic
27 intakes (0.15 to 0.29 µg/kg bw/day) leave little room for exposures to arsenic from other
28 sources.” Thus, consumption of Defendants’ baby foods, including but not limited to infant rice

1 cereal and rice-based snack baby food products manufactured and sold by Defendants can
2 expose babies to levels of arsenic above that associated with neurodevelopmental harm in the
3 scientific literature.

4 98. Defendants manufactured and sold baby food products that, with just a couple of
5 servings, are capable of exposing a baby to lead levels at or above the 2.2 ug/day considered by
6 the FDA to be associated with neurodevelopmental harm. Each source of lead exposure is
7 cumulative—making any detectable amount of Toxic Heavy Metal in baby food a contributing
8 factor to potential neurodevelopmental harm.

9 99. Similarly, upon information and belief, Defendant Hain was aware of the
10 neurotoxic propensities of lead, arsenic, and mercury at low levels, but proceeded to
11 manufacture and sell Baby Foods containing arsenic and lead levels that, upon information and
12 belief, Hain considered as capable of inflicting neurodevelopmental harm.

13 **VIII. Defendants Knowingly Sold Baby Foods Containing Toxic Heavy Metals and Knew**
14 **or Should Have Known of the Risks of Such Exposures in Children and Thus**
15 **Breeched their Duty of Care in Selling Contaminated Baby Foods**

16 100. During the time that Defendants manufactured and sold baby foods in the United
17 States, the weight of evidence showed that Defendants' baby foods exposed babies and children
18 to Toxic Heavy Metals. Defendants failed to disclose this risk to consumers through any
19 means.

20 101. As discussed above, both independent testing, the Defendants' internal
21 evaluations of their baby foods, and the Defendants' representations and disclosures to
22 Congress and the FDA reveal the presence of Toxic Heavy Metals in Defendants' products. As
23 such, Defendants knew or should have known that their baby foods contain Toxic Heavy Metals
24 with an attendant risk of causing neurodevelopmental harm.

25 102. Indeed, independent testing performed in early 2019 demonstrated elevated
26 amounts of such Toxic Heavy Metals in Baby Food products on the U.S. market, and the HBBF
27 Report further confirmed such contamination of Defendants' baby foods. And, as the
28 Congressional investigation found, the Defendants continued to sell their baby foods even after

1 testing of both ingredients and finished products revealed the presence of Toxic Heavy Metals.

2 103. Moreover, the scientific literature on the dangers of Toxic Heavy Metals—
3 particularly as it relates to adverse effects on the neurodevelopment of children—have been
4 well known for decades. Defendants, as manufacturers and sellers of baby foods, are held to the
5 standard of experts and responsible for keeping abreast of the latest scientific developments
6 related are held to the dangers of contaminants in their products. Defendants failed to take
7 action to protect vulnerable children from exposure to the Toxic Heavy Metals in their foods
8 and, thus, subjected them to the risk of brain injury which can manifest as neurodevelopmental
9 disorders such as ASD, ADHD, and related *sequalae*.

10 104. To be clear, the Defendants are able to manufacture baby foods that do not pose
11 such a dangerous risk to the health of infants and children by using alternative ingredients, not
12 adding certain pre-mix minerals and vitamins high in Toxic Heavy Metals or sampling their
13 ingredients from other sources. At the very least, Defendants were under a duty to warn
14 unsuspecting parents of the presence of Toxic Heavy Metals in their Baby Foods.

15 **IX. Defendants' Baby Food Products Were Defective Due to Insufficient Warnings,**
16 **Manufacturing Defects, and/or Design Defects to the Extent the Baby Food**
17 **Products Contained Detectable Levels of Toxic Heavy Metal**

18 105. All of Defendants' baby food products that contained detectable levels of Toxic
19 Heavy Metals (or constituted finished products wherein the ingredients contained detectable
20 levels of Toxic Heavy Metals), assuming state of the art analytical testing, were defective as it
21 relates to warnings because no Defendant has ever warned about the presence of Toxic Heavy
22 Metals in their baby foods. Because discovery is ongoing, a complete list of Defendants'
23 specific baby foods that contained detectable levels of Toxic Heavy Metals is not known at this
24 time. Based on publicly available testing data, including data reported by HBBF and Congress,
25 the vast majority of Defendants' products contain detectable levels of Toxic Heavy Metals in
26 them, rendering them each defective as it relates to warnings.

27 106. Defendants' baby food products are also defective as manufactured, as they
28 contain detectable Toxic Heavy Metals which are not supposed to be there, by design. Toxic

1 Heavy Metals do not provide any nutritional or therapeutic value to infants or fully-grown
2 humans. They are only poisonous to neurodevelopment. None of these baby food products, by
3 design, should contain Toxic Heavy Metals in them and, thus, to the extent the products contain
4 detectable levels of Toxic Heavy Metals in them, those are manufacturing defects. Based on
5 publicly available data, most of Defendants' baby food products contain some detectable levels
6 of Toxic Heavy Metals in them.

7 107. If Defendants specifically designed their baby food products to contain Toxic
8 Heavy Metals, meaning their presence was not the product of a manufacturing defect, then the
9 products were defective by design. Toxic Heavy Metals should not be present in foods that are
10 being consumed by infants and products should be designed to not have detectable levels of
11 toxic heavy metal in them. Such designs are easily accomplished, by only using ingredients that
12 contain non-detectable levels of Toxic Heavy Metals and by testing finished products, before
13 release, to ensure they do not contain Toxic Heavy Metals within them. This is possible
14 because there are examples of Defendants' finished products not containing detectable levels of
15 Toxic Heavy Metals—even if, for that same products, there are instances where they did. Thus,
16 Defendants were able to design baby food products to not contain detectable levels of toxic
17 heavy metals, and to the extent that each Defendants' design contemplated there being
18 detectable levels of Toxic Heavy Metals in baby food, the design, itself, was defective.

19 108. Whether the Defendants' products were defective due to inadequate warnings,
20 manufacturing errors, or by design, the existing publicly available evidence indicates that
21 consumption of Defendants' baby food products exposed Plaintiff to Toxic Heavy Metals, and
22 that Defendants' baby food products contributed to Plaintiff's Toxic Heavy Metal burden
23 during a critical period of infant neurodevelopment. Plaintiff, thus, alleges that this cumulative
24 exposure from Defendants' products to Toxic Heavy Metals, substantially contributed to
25 causing neurodevelopmental harm that manifested as ASD. Moreover, Plaintiff alleges that had
26 these baby food products not been defective—by having sufficient warnings, being correctly
27 manufactured, and/or designed properly—Plaintiff would not have been exposed to levels of
28 Toxic Heavy Metals in Defendants' baby food products that would have contributed to the

1 neurodevelopmental harm that manifested as ASD.

2 **X. Exemplary / Punitive Damages Allegations**

3 109. Defendants' conduct as alleged herein was done with reckless disregard for
4 human life, oppression, and malice. Defendants' conduct is particularly reprehensible given
5 that their toxic foods were directed at vulnerable babies—a population group far more
6 susceptible than adults to the neurotoxic dangers of heavy metals.

7 110. Defendants were fully aware of the safety risks of Contaminated Baby Foods,
8 particularly the dangerous potential of Toxic Heavy Metals on neurodevelopment in infants and
9 children. Nonetheless, Defendants deliberately crafted their label, marketing, and promotion to
10 mislead consumers. Indeed, Defendants repeatedly market their baby foods as safe for
11 consumption and go so far as claiming that they adhere to “the strictest standards in the world;”
12 and provide “baby’s food full of nutrition while meeting standards strict enough for tiny
13 tummies,” as well as other statements and representations that hold out their baby foods as safe
14 for consumption by infants. Indeed, each Defendant falsely reassured
15 parents/guardians/caregivers that their baby foods would foster healthy neurodevelopment when
16 consumed even though they knew their baby foods exposed infants’ developing brains to potent
17 neurotoxic heavy metals. In actual fact, as discussed above, Defendants routinely sold
18 Contaminated Baby Foods, regularly flouted their own internal limits of Toxic Heavy Metals
19 and failed to disclose to consumers that their products contained such dangerous contaminants.

20 111. This was not done by accident or through some justifiable negligence. Rather,
21 Defendants knew they could profit by convincing consumers that their baby foods were healthy
22 and safe for infants, and that full disclosure of presence and/or risks of the Toxic Heavy Metals
23 present in the baby foods would limit the amount of money Defendants would make selling the
24 products. Defendants’ object was accomplished not only through a misleading label, but
25 through a comprehensive scheme of selective misleading research and testing, failure to test,
26 false advertising, and deceptive omissions as more fully alleged throughout this Complaint.
27 Parents/guardians/caregivers were denied the right to make an informed decision about whether
28 to purchase Defendants’ baby food for their babies without knowing the full risks attendant to

1 that use. Such conduct was done with conscious disregard of Plaintiffs' welfare and rights.

2 **PLAINTIFF'S USE AND INJURY**

3 112. Plaintiff was diagnosed with ASD at approximately 2.5 years of age.

4 113. Plaintiff consumed Baby Food products manufactured and/or sold by the
5 Defendants.

6 114. Upon information and belief, the Baby Food products manufactured/marketed by
7 Defendants and consumed by Plaintiff were all contaminated with substantial quantities of
8 Toxic Heavy Metals.

9 115. Upon information and belief, as a direct and proximate result of consuming
10 Defendants' Baby Foods, Plaintiff was exposed to substantial quantities of Toxic Heavy Metals.

11 116. As a direct and proximate result of consuming Defendants' Baby Foods and the
12 exposure to the Toxic Heavy Metals therein – Plaintiff suffered brain injury which manifested
13 as ASD and related *sequae*.

14 117. Based on prevailing scientific evidence, exposure to the Toxic Heavy Metals at
15 the levels contained in Defendants' Baby Foods can cause brain injury which can manifest as
16 the neurodevelopmental disorders ASD and related *sequae* in humans.

17 118. Had any Defendant warned Plaintiff's parents that Defendants' Baby Foods
18 could lead to exposure to Toxic Heavy Metals or, in turn, brain injury, Plaintiff would not have
19 consumed the Baby Foods.

20 119. Plaintiff alleges that as a direct and proximate result of Plaintiff's consumption
21 of Baby Foods supplied and distributed by Defendants, Plaintiff suffered significant harm,
22 conscious pain and suffering, physical injury and bodily impairment including, but not limited
23 to brain injury which manifested as ASD and related *sequae*.

24 **CAUSES OF ACTION**

25 **COUNT I: STRICT PRODUCTS LIABILITY – FAILURE TO WARN**

26 120. Plaintiff incorporates by reference each allegation set forth in preceding
27 paragraphs as if fully stated herein.

28 121. At all relevant times, Defendants engaged in the business of researching, testing,

1 developing, designing, manufacturing, labeling, marketing, selling, inspecting, distributing, and
2 promoting baby foods, which are defective and unreasonably dangerous to consumers,
3 including Plaintiff, because they do not contain adequate warnings or instructions concerning
4 the dangerous characteristics of baby foods in the form of the presence of Toxic Heavy Metals.
5 These actions were under the ultimate control and supervision of Defendants. At all relevant
6 times, Defendants registered, researched, manufactured, distributed, marketed, and sold baby
7 foods and aimed at a consumer market.

8 122. Defendants researched, tested, developed, designed, manufactured, labeled,
9 marketed, sold, inspected, distributed, and promoted, and otherwise released into the stream of
10 commerce their Contaminated Baby Foods, and in the course of same, directly advertised or
11 marketed the products to consumers and end users, including Plaintiff, and therefore had a duty
12 to warn about the presence of and risks associated with exposure to Toxic Heavy Metals from
13 the consumption of Contaminated Baby Foods.

14 123. At all relevant times, Defendants had a duty to properly test, develop, design,
15 manufacture, inspect, package, label, market, promote, sell, and distribute, maintain, supply,
16 provide proper warnings, and take such steps as necessary to ensure their Contaminated Baby
17 Foods did not cause users and consumers to suffer from unreasonable and dangerous risks.
18 Defendants had a continuing duty to warn Plaintiff of dangers associated with exposure to
19 Toxic Heavy Metals from consumption of the Contaminated Baby Foods. Defendants, as a
20 manufacturer, seller, or distributor of food, are held to the knowledge of an expert in the field.

21 124. At the time of manufacture, Defendants could have provided the warnings or
22 instructions regarding the full and complete risks of exposure to Toxic Heavy Metals in the
23 Contaminated Baby Foods because they knew or should have known of the unreasonable risks
24 of harm associated with the use of and/or exposure to such toxins.

25 125. At all relevant times, Defendants failed and deliberately refused to investigate,
26 study, test, or promote the safety or to minimize the dangers to users and consumers of their
27 product and to those who would foreseeably use or be harmed by exposure to the Toxic Heavy
28 Metals in Defendants' Baby Foods.

1 126. Even though Defendants knew or should have known that the presence of Toxic
2 Heavy Metals in Contaminated Baby Foods posed a risk of harm, they failed to exercise
3 reasonable care to warn of the dangerous risks associated with use and exposure to the toxins in
4 the products. The neurotoxic characteristic of Toxic Heavy Metals contained in Defendants'
5 Contaminated Baby Foods, as described above, were known to Defendants, or scientifically
6 knowable to Defendants through appropriate research and testing by known methods, at the
7 time they distributed, supplied, or sold the products, and were not known to end users and
8 consumers, such as Plaintiff. The product warnings for Contaminated Baby Foods in effect
9 during the time period Plaintiff consumed those foods were inadequate, both substantively and
10 graphically, to alert consumers to the presence of and health risks associated with exposure to
11 the Toxic Heavy Metals from Contaminated Baby Food consumption.

12 127. At all relevant times, Defendants' Contaminated Baby Foods reached the
13 intended consumers, handlers, and users or other persons coming into contact with these
14 products, including Plaintiff, without substantial change in their condition as manufactured,
15 sold, distributed, labeled, and marketed by Defendants.

16 128. Plaintiff was exposed to the Toxic Heavy Metals in Defendants' Contaminated
17 Baby Foods without knowledge of the potential for such exposure to Toxic Heavy Metals from
18 consumption of the products and the dangerous characteristics of the toxins.

19 129. At all relevant times, Plaintiff was exposed to the Toxic Heavy Metals in the
20 Defendants' Contaminated Baby Foods while consuming the foods for their intended or
21 reasonably foreseeable purposes, without knowledge of their dangerous characteristics.

22 130. Plaintiff could not have reasonably discovered the defects and risks associated
23 with exposure to the Toxic Heavy Metals in the Contaminated Baby Foods prior to or at the
24 time of Plaintiff consuming those foods. Plaintiff relied upon the skill, superior knowledge, and
25 judgment of Defendants to know about and disclose serious health risks associated with
26 exposure to the toxins in Defendants' products.

27 131. The information that Defendants did provide or communicate failed to contain
28 relevant warnings, hazards, and precautions that would have enabled consumers such as

1 Plaintiffs to avoid consuming the products and, in turn, exposure to the Toxic Heavy Metals.
2 Instead, Defendants disseminated information that was inaccurate, false, and misleading, and
3 which failed to communicate accurately or adequately the comparative severity, duration, and
4 extent of the risk of injuries with use of and/or exposure to the Toxic Heavy Metals in the
5 Contaminated Baby Foods; continued to aggressively promote the safety of their products, even
6 after they knew or should have known of the unreasonable risks from use or exposure; and
7 concealed, downplayed, or otherwise suppressed, through aggressive marketing and promotion,
8 any information or research about the risks and dangers of exposure to Toxic Heavy Metals
9 from consumption of Contaminated Baby Foods.

10 132. This alleged failure to warn is not limited to the information contained on
11 Contaminated Baby Foods labeling. The Defendants were able, in accord with federal law, to
12 comply with relevant state law by disclosing the known risks associated with exposure to Heavy
13 Metals in Contaminated Baby Foods through other non-labeling mediums, i.e., promotion,
14 advertisements, public service announcements, and/or public information sources. But the
15 Defendants did not disclose these known risks through any medium. The ability to provide such
16 warnings is not prohibited by any federal law.

17 133. Furthermore, Defendants possess a First Amendment Right to make truthful
18 statements about the products they sell, and no law could lawfully restrict that constitutional
19 right. This included making statements about the presence of and risks associated with Toxic
20 Heavy Metals in Contaminated Baby Foods.

21 134. Had Defendants provided adequate warnings and instructions and properly
22 disclosed and disseminated the risks associated with exposure to the toxins in their
23 Contaminated Baby Foods, Plaintiffs could have avoided the risk of developing injuries and
24 could have obtained or used alternative products. However, as a result of Defendants'
25 concealment of the dangers posed by the Toxic Heavy Metals in their Contaminated Baby
26 Foods, Plaintiff could not have averted their exposures.

27 135. Defendants' conduct, as described above, was reckless. Defendants risked the
28 lives of babies and children, including Plaintiff, with knowledge of the safety problems

1 associated with Contaminated Baby Foods, and suppressed this knowledge from the general
2 public. Defendants made conscious decisions not to warn or inform the unsuspecting public.

3 136. The Defendants' lack of adequate warnings and instructions accompanying their
4 Contaminated Baby Foods caused Plaintiff's injuries.

5 137. As a direct and proximate result of the Defendants' failure to provide an
6 adequate warning of the risks of exposure to the Toxic Heavy Metals in their Contaminated
7 Baby Foods, Plaintiff has been injured, sustained severe and permanent pain, suffering,
8 disability, impairment, loss of enjoyment of life, economic loss and damages including, but not
9 limited to past and future medical expenses, lost income, and other damages.

10 138. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
11 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
12 all such other and further relief as this Court deems just and proper.

13 **COUNT II: STRICT PRODUCTS LIABILITY – MANUFACTURING DEFECT**

14 139. Plaintiff incorporates by reference each allegation set forth in preceding
15 paragraphs as if fully stated herein.

16 140. At all times herein mentioned, Defendants designed, manufactured, tested,
17 marketed, sold, handled, and distributed the Contaminated Baby Foods consumed by Plaintiff.

18 141. At all relevant times, the Contaminated Baby Foods consumed by Plaintiff were
19 expected to and did reach Plaintiff without a substantial change in their condition as
20 manufactured, handled, distributed, and sold by Defendants.

21 142. At all relevant times, the Contaminated Baby Foods consumed by Plaintiff were
22 used in a manner that was foreseeable and intended by Defendants.

23 143. The Contaminated Baby Foods consumed by Plaintiff were not reasonably safe
24 for their intended use and were defective with respect to their manufacture, as described herein,
25 in that Defendants deviated materially from their design and manufacturing specifications
26 and/or such design and manufacture posed an unreasonable risk of harm to Plaintiffs.¹ Baby

27 ¹ If, through discovery and further litigation, it is discovered that Defendants' baby food
28 products contained detectable levels of Toxic Heavy Metals by design, then Plaintiff will
pursue a design defect claim (Count III) in the alternative.

1 food should not, by design, contain any detectable levels of Toxic Heavy Metals in them. Thus,
2 Defendants' Contaminated Baby Foods contain manufacturing defects.

3 144. The Defendants' Contaminated Baby Foods contained Toxic Heavy Metals
4 because, while in the control and possession of Defendants, they manufactured ingredients and
5 used manufacturing processes that result in the finished product being contaminated with Toxic
6 Heavy Metals. Had Defendants properly manufactured (directly or through co-manufacturers)
7 the baby foods, they would not have contained detectable levels of Toxic Heavy Metals in them
8 and, thus, would not have contained a manufacturing defect.

9 145. Nothing under federal law limited or restricted Defendants from taking action to
10 reduce or eliminate the Toxic Heavy Metals from being present in their baby foods.

11 146. This manufacturing defect caused Plaintiff to be exposed to Toxic Heavy Metals
12 through ingestion of the Contaminated Baby Foods which, in turn, caused neurodevelopmental
13 harm that manifested as ASD.

14 147. The exposure to the Toxic Heavy Metals in the Contaminated Baby Foods
15 creates risks to the health and safety of babies that are far more significant than the risks posed
16 by non- Contaminated Baby Food products, and which far outweigh the utility of the
17 Contaminated Baby Foods products because of Defendants' manufacturing defects.

18 148. Defendants have intentionally and recklessly manufactured the Contaminated
19 Baby Foods with wanton and willful disregard for the rights and health of Plaintiff, and with
20 malice, placing their economic interests above the health and safety of Plaintiff.

21 149. As a direct and proximate result of the Defendants' defective manufacture of the
22 Contaminated Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
23 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages
24 including, but not limited to medical expenses, lost income, and other damages.

25 150. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
26 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
27 all such other and further relief as this Court deems just and proper.

28 **COUNT III: STRICT PRODUCTS LIABILITY – DESIGN DEFECT**

1 151. Plaintiff incorporates by reference each allegation set forth in preceding
2 paragraphs as if fully stated herein.

3 152. At all times herein mentioned, Defendants designed, manufactured, tested,
4 marketed, sold, handled, and distributed the Contaminated Baby Foods consumed by Plaintiff.
5 These actions were under the ultimate control and supervision of Defendants.

6 153. At all relevant times, Defendants' Baby Food products were designed and
7 labeled in an unsafe, defective, and inherently dangerous manner that was dangerous for use or
8 consumption by infants and babies, including Plaintiff.

9 154. Defendants' Contaminated Baby Food products as researched, tested, developed,
10 designed, licensed, manufactured, packaged, labeled, distributed, sold, and marketed by
11 Defendants were defective in design and formulation in that, when they were placed into the
12 stream of commerce, they were unreasonably dangerous and dangerous to an extent beyond that
13 which an ordinary consumer would contemplate.

14 155. Defendants' Contaminated Baby Food products, as researched, tested,
15 developed, designed, licensed, manufactured, packaged, labeled, distributed, sold, and marketed
16 by Defendants were defective in design and formulation in that, when they left the hands of
17 Defendants, the foreseeable risks exceeded the alleged benefits associated with their design and
18 formulation.

19 156. At all relevant times, the Contaminated Baby Food products consumed by
20 Plaintiff were expected to and did reach Plaintiff without a substantial change in its condition as
21 designed, manufactured, handled, distributed, and sold by Defendants.

22 157. At all relevant times, Defendants knew or had reason to know that their
23 Contaminated Baby Food products were defective and were inherently dangerous and unsafe
24 when used in the manner instructed and provided by Defendants.

25 158. Therefore, at all relevant times, Defendants' Baby Food products, as researched,
26 tested, developed, designed, registered, licensed, manufactured, packaged, labeled, distributed,
27 sold and marketed by Defendants were defective in design and formulation, in one or more of
28 the following ways:

1 1. When placed in the stream of commerce, Defendants' Contaminated
2 Baby Food products were unreasonably dangerous in that they contained Toxic Heavy Metals
3 that posed a risk of causing interference with neurodevelopment in babies that manifests as the
4 neurodevelopmental disorders ASD, ADHD and related *sequelae* when used in a reasonably
5 anticipated manner;

6 2. When placed in the stream of commerce, Defendants' designed
7 Contaminated Baby Food products to contain unreasonably dangerous design defects and were
8 not reasonably safe when used in a reasonably anticipated or intended manner;

9 3. Defendants, by design, did not sufficiently test, investigate, or study their
10 Contaminated Baby Food products;

11 4. Exposure to the Toxic Heavy Metals in Defendants' Contaminated Baby
12 Food products present a risk of harmful effects that outweigh any potential utility stemming
13 from their use;

14 5. Defendants, by design, did not conduct adequate post-marketing
15 surveillance of their Contaminated Baby Food products which would have alerted the public to
16 risks; and

17 6. Defendants could have employed safer alternative designs and
18 formulations for Contaminated Baby Foods, such as ensuring the baby food did not have any
19 detectable level of Toxic Heavy Metals.

20 159. Plaintiff consumed Defendants' Contaminated Baby Food products in an
21 intended or reasonably foreseeable manner without knowledge of their dangerous
22 characteristics.

23 160. Defendants' Contaminated Baby Food products were and are more dangerous
24 than alternative products, and Defendants could have designed their Contaminated Baby Food
25 products to avoid harm to children. Indeed, at the time Defendants designed the Contaminated
26 Baby Food products, the state of the industry's scientific knowledge was such that a less risky
27 design or formulation was attainable.

28 161. At the time the Contaminated Baby Food products left Defendants' control, there

1 was a practical, technically feasible, and safer alternative design that would have prevented the
2 harm without substantially impairing the reasonably anticipated or intended function of
3 Defendants' Contaminated Baby Foods.

4 162. Defendants intentionally and recklessly defectively designed the Contaminated
5 Baby Foods with wanton and willful disregard for the rights and health of Plaintiff, and with
6 malice, placing their economic interests above the health and safety of Plaintiff.

7 163. The design defects in Defendants' Contaminated Baby Foods were substantial
8 factors in causing Plaintiff's injuries.

9 164. As a direct and proximate result of the Defendants' defective design of the
10 Contaminated Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
11 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages
12 including, but not limited to medical expenses, lost income, and other damages.

13 165. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
14 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
15 all such other and further relief as this Court deems just and proper.

16 **COUNT IV: NEGLIGENCE – FAILURE TO WARN**

17 166. Plaintiff incorporates by reference each allegation set forth in preceding
18 paragraphs as if fully stated herein.

19 167. At all relevant times, Defendants engaged in the business of testing, developing,
20 designing, manufacturing, marketing, selling, distributing, and promoting baby foods.
21 Defendants knew, or, by the exercise of reasonable care, should have known that their
22 Contaminated Baby Foods are not accompanied with adequate warnings concerning the
23 dangerous characteristics of exposure to Toxic Heavy Metals from consumption. These actions
24 were under the ultimate control and supervision of Defendants.

25 168. Defendants researched, developed, designed, tested, manufactured, inspected,
26 labeled, distributed, marketed, promoted, sold, and otherwise released into the stream of
27 commerce their Contaminated Baby Foods, and in the course of same, directly advertised or
28 marketed the products to consumers and end users, including Plaintiff, and therefore had a duty

1 to warn of the risks associated with the presence of and exposure to Toxic Heavy Metals from
2 consumption of Contaminated Baby Foods.

3 169. At all relevant times, Defendants had a duty to properly test, develop, design,
4 manufacture, inspect, package, label, market, promote, sell, distribute, maintain, supply, provide
5 proper warnings, and take such steps as necessary to ensure their Contaminated Baby Foods did
6 not cause users and consumers to suffer from unreasonable and dangerous risks. Defendants
7 had a continuing duty to warn Plaintiff of dangers associated with the presence of and exposure
8 to Toxic Heavy Metals from consumption of Contaminated Baby Foods. Defendants, as a
9 manufacturer, seller, or distributor of food products, are held to the knowledge of an expert in
10 the field.

11 170. At the time of manufacture, Defendants could have provided warnings regarding
12 the presence of and risks of exposure to Toxic Heavy Metals from consumption of
13 Contaminated Baby Foods because they knew or should have known exposure to Toxic Heavy
14 Metals from consumption of Contaminated Baby Foods was dangerous, harmful and injurious
15 when the Contaminated Baby Foods were consumed by Plaintiff in a reasonably foreseeable
16 manner.

17 171. At all relevant times, Defendants failed and deliberately refused to investigate,
18 study, test, or promote the safety or to minimize the dangers to users and consumers of their
19 products and to those who would foreseeably use or be harmed by Defendants' Contaminated
20 Baby Foods.

21 172. Defendants knew or should have known that exposure to Toxic Heavy Metals
22 from consumption of Contaminated Baby Foods posed a risk of harm, but failed to exercise
23 reasonable care to warn of the dangerous risks associated with use and exposure to the toxins in
24 the products. The dangerous propensities of exposure to Toxic Heavy Metals from consumption
25 of the Contaminated Baby Foods, as described above, were known to Defendants, or
26 scientifically knowable to Defendants through appropriate research and testing by known
27 methods, at the time they distributed, supplied, or sold the products, and were not known to end
28 users and consumers, such as Plaintiff.

1 173. At all relevant times, Plaintiff was exposed to Toxic Heavy Metals through
2 consumption of the Contaminated Baby Foods while using the products for their intended or
3 reasonably foreseeable purposes, without knowledge of their dangerous characteristics.

4 174. Defendants knew or should have known that the non-extant warnings
5 disseminated with their Contaminated Baby Foods were inadequate, failed to communicate
6 adequate information on the presence of and dangers of exposure to toxins contained therein,
7 and failed to communicate warnings and instructions that were appropriate and adequate to
8 render the products safe for their ordinary, intended and reasonably foreseeable uses.

9 175. The information that Defendants did provide or communicate failed to contain
10 relevant warnings, hazards, and precautions that would have enabled consumers such as
11 Plaintiffs to avoid using the product and, in turn, prevented exposure to the Toxic Heavy Metals
12 contained therein. Instead, Defendants disseminated information that was inaccurate, false, and
13 misleading, and which failed to communicate accurately or adequately the comparative severity,
14 duration, and extent of the risk of injuries with use of and/or exposure to the Toxic Heavy
15 Metals in the Contaminated Baby Foods; continued to aggressively promote the efficacy of their
16 products, even after they knew or should have known of the unreasonable risks from use or
17 exposure to the toxins contained therein; and concealed, downplayed, or otherwise suppressed,
18 through aggressive marketing and promotion, any information or research about the risks and
19 dangers of exposure to Toxic Heavy Metals from consumption of the Contaminated Baby
20 Foods.

21 176. A reasonable company under the same or similar circumstance would have
22 warned and instructed of the dangers of exposure to Toxic Heavy Metals from consumption of
23 Contaminated Baby Foods.

24 177. This alleged failure to warn is not limited to the information contained on the
25 labeling of Defendants' Contaminated Baby Foods. Defendants were able, in accord with
26 federal law, to comply with relevant state law by disclosing the known risks associated with
27 exposure to Toxic Heavy Metals from consumption of Contaminated Baby Foods through other
28 non-labeling mediums, i.e., promotion, advertisements, public service announcements, and/or

1 public information sources. But the Defendants did not disclose these known risks through any
2 medium.

3 178. Furthermore, Defendants possess a First Amendment Right to make truthful
4 statements about the products they sell, and no law could lawfully restrict that constitutional
5 right.

6 179. Had Defendants provided adequate warnings and instructions and properly
7 disclosed and disseminated the risks associated with the presence of and exposure to Toxic
8 Heavy Metals in the Contaminated Baby Foods, Plaintiff could have avoided the risk of
9 developing injuries and could have obtained or used alternative products. However, as a result
10 of Defendants' concealment of the dangers posed by their Contaminated Baby Foods, Plaintiff
11 could not have averted their injuries.

12 180. Defendants' conduct, as described above, was reckless. Defendants risked the
13 lives of consumers and users of their products, including Plaintiff, with knowledge of the safety
14 problems associated with Contaminated Baby Foods, and suppressed this knowledge from the
15 general public. Defendants made conscious decisions not to warn or inform the unsuspecting
16 public.

17 181. The Defendants' lack of adequate warnings and instructions accompanying their
18 Contaminated Baby Foods were a substantial factor in causing Plaintiff's injuries.

19 182. As a direct and proximate result of the Defendants' failure to provide an
20 adequate warning of the risks of exposure to Toxic Heavy Metals from consumption of
21 Contaminated Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
22 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages
23 including, but not limited to past and future medical expenses, lost income, and other damages.

24 183. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
25 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
26 all such other and further relief as this Court deems just and proper.

27 **COUNT V: NEGLIGENCE – MANUFACTURING**

28 184. Plaintiff incorporates by reference each allegation set forth in preceding

1 paragraphs as if fully stated herein.

2 185. At all relevant times, the Defendants manufactured, tested, marketed, sold, and
3 distributed the Contaminated Baby Foods that Plaintiff consumed.

4 186. The Defendants had a duty to exercise reasonable care, in the manufacturing,
5 testing, marketing, sale, and distribution of baby foods.

6 187. The Defendants knew or, by the exercise of reasonable care, should have known,
7 that exposure to Toxic Heavy Metals from consumption of Contaminated Baby Foods rendered
8 the foods carelessly manufactured, dangerous, harmful and injurious when used by Plaintiff in a
9 reasonably foreseeable manner.

10 188. The Defendants knew or, by the exercise of reasonable care, should have known,
11 ordinary consumers such as Plaintiff would not have realized the potential risks and dangers of
12 exposure to Toxic Heavy Metals from consumption of Contaminated Baby Foods.

13 189. Without limitation, examples of the manner in which Defendants breached their
14 duty to exercise reasonable care in manufacturing Contaminated Baby Foods, included:

15 1. Failure to adequately inspect/test the Contaminated Baby Foods, and
16 their ingredients, during and after the manufacturing process;

17 2. Failure to implement procedures that would reduce or eliminate Toxic
18 Heavy Metals in baby foods;

19 3. Failure to investigate suppliers and ingredient sources to reduce and
20 eliminate the risk of ingredients containing Toxic Heavy Metals; and

21 4. Failure to avoid using ingredients free from, or which contain far less,
22 Toxic Heavy Metals to manufacture baby food.

23 190. A reasonable manufacturer under the same or similar circumstances would have
24 implemented appropriate manufacturing procedures to better ensure the quality and safety of
25 their product.

26 191. Plaintiff was harmed directly and proximately by the Defendants' failure to use
27 reasonable care in the manufacture of their Contaminated Baby Foods. Such harm includes
28 exposure to Toxic Heavy Metals, which can cause or contribute to interference with early

1 neurodevelopment which manifests as ASD and related *sequelae*.

2 192. Defendants' improper manufacturing of Baby Foods was willful, wanton,
3 malicious, and conducted with reckless disregard for the health and safety of users of the
4 Contaminated Baby Foods, including Plaintiff.

5 193. The defects in Defendants' Contaminated Baby Foods were substantial factors in
6 causing Plaintiff's injuries.

7 194. As a direct and proximate result of the Defendants' improper manufacturing of
8 Contaminated Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
9 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages
10 including, but not limited to past and future medical expenses, lost income, and other damages.

11 195. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
12 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
13 all such other and further relief as this Court deems just and proper.

14 **COUNT VI: NEGLIGENCE – PRODUCT DESIGN**

15 196. Plaintiff incorporates by reference each allegation set forth in preceding
16 paragraphs as if fully stated herein.

17 197. Defendants knew or, by the exercise of reasonable care, should have known,
18 ordinary consumers such as Plaintiff would not have realized the potential risks and dangers of
19 Contaminated Baby Foods.

20 198. The Defendants owed a duty to all reasonably foreseeable users to design a safe
21 product.

22 199. The Defendants breached their duty by failing to use reasonable care in the
23 design of Contaminated Baby Foods because the products exposed babies to Toxic Heavy
24 Metals.

25 200. The Defendants breached their duty by failing to use reasonable care in the
26 design of Contaminated Baby Foods by negligently designing the foods with ingredients and/or
27 components contaminated with Toxic Heavy Metals.

28 201. The Defendants breached their duty by failing to use reasonable care in the

1 design of Contaminated Baby Foods by negligently designing and formulation, in one or more
2 of the following ways:

3 1. When placed in the stream of commerce, Defendants' Contaminated
4 Baby Foods were defective in design and formulation, and, consequently, dangerous to an
5 extent beyond that which an ordinary consumer would contemplate;

6 2. When placed in the stream of commerce, Defendants' Contaminated
7 Baby Foods were unreasonably dangerous in that they were hazardous and posed a risk of
8 neurodevelopmental disorders and other serious illnesses when used in a reasonably anticipated
9 manner;

10 3. When placed in the stream of commerce, Defendants' Contaminated
11 Baby Foods contained unreasonably dangerous design defects and were not reasonably safe
12 when used in a reasonably anticipated or intended manner;

13 4. Defendants did not sufficiently test, investigate, or study their
14 Contaminated Baby Foods and, specifically, the content of Toxic Heavy Metals in the
15 ingredients used to manufacture the foods and/or the finished products;

16 5. Defendants did not sufficiently test, investigate, or study their
17 Contaminated Baby Foods and, specifically, the ability for those foods to expose babies to
18 Toxic Heavy Metals; and

19 6. Exposure to the Toxic Heavy Metals in Contaminated Baby Foods
20 presents a risk of harmful effects that outweigh any potential utility stemming from the use of
21 the products;

22 202. Defendants knew or should have known at the time of marketing Contaminated
23 Baby Foods that exposure to Toxic Heavy Metals contained in the Baby Foods could result in
24 interference with early neurodevelopment that that manifests as ASD, ADHD and other severe
25 illnesses and injuries.

26 203. Defendants, by design, did not conduct adequate post-marketing surveillance of
27 their Contaminated Baby Foods.

28 204. Defendants could have employed safer alternative designs and formulations. For

1 example, the Defendants could have avoided use of certain ingredients contaminated with Toxic
2 Heavy Metals, avoided using pre-mix vitamins contaminated with Toxic Heavy Metals, and/or
3 sampled their ingredients from other sources.

4 205. The Defendants breached their duty by failing to use reasonable care by failing
5 to use cost effective, reasonably feasible alternative designs. There was a practical, technically
6 feasible, and safer alternative design that would have prevented the harm without substantially
7 impairing the reasonably anticipated or intended function of Defendants' Contaminated Baby
8 Foods.

9 206. A reasonable company under the same or similar circumstances would have
10 designed a safer product.

11 207. Plaintiff was harmed directly and proximately by the Defendants' failure to use
12 reasonable care in the design of their Contaminated Baby Foods. Such harm includes exposure
13 to Toxic Heavy Metals, which can cause or contribute to interference with neurodevelopment
14 that manifests as ASD and related *sequelae*.

15 208. Defendants' defective design of Contaminated Baby Foods was willful, wanton,
16 malicious, and conducted with reckless disregard for the health and safety of consumers of the
17 Baby Foods, including Plaintiff.

18 209. The defects in Defendants' Contaminated Baby Foods were substantial factors in
19 causing Plaintiff's injuries.

20 210. As a direct and proximate result of the Defendants' negligent design of the
21 Contaminated Baby Foods, Plaintiff has been injured, sustained severe and permanent pain,
22 suffering, disability, impairment, loss of enjoyment of life, economic loss and damages
23 including, but not limited to past and future medical expenses, lost income, and other damages.

24 211. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
25 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
26 all such other and further relief as this Court deems just and proper.

27 **COUNT VII: GENERAL NEGLIGENCE**

28 212. Plaintiff incorporates by reference each allegation set forth in preceding

1 paragraphs as if fully stated herein.

2 213. Plaintiff pleads claims for negligence under all theories that may be actionable
3 under any applicable state laws.

4 214. Defendants owed Plaintiff a duty to act with reasonable care.

5 1. Defendants owed a duty because they distributed and promoted their
6 products as safe for children to consume.

7 2. Defendants owed a duty because their conduct created a risk of harm to
8 Plaintiffs and caused Plaintiff actual harm.

9 3. Defendants owed a duty because the risk of harm to Plaintiff was
10 embedded in, and an inherent component of, their negligent business practices.

11 4. Defendants owed a duty because they designed, manufactured,
12 controlled, distributed, and sold their products to Plaintiff.

13 215. Defendants breached their duty to Plaintiff.

14 216. Defendants' negligence includes, but is not limited to, their marketing,
15 designing, manufacturing, producing, supplying, inspecting, testing, selling and/or distributing
16 Contaminated Baby Foods in one or more of the following respects:

17 1. Failure to implement procedures that would reduce or eliminate Toxic
18 Heavy Metals in baby foods;

19 2. Failure to investigate suppliers and ingredient sources to reduce and
20 eliminate the risk of ingredients containing Toxic Heavy Metals; and

21 3. Failure to avoid using ingredients free from, or which contain far less,
22 Toxic Heavy Metals to manufacture baby food.

23 4. When placed in the stream of commerce, Defendants' Contaminated
24 Baby Foods were defective in design and formulation, and, consequently, dangerous to an
25 extent beyond that which an ordinary consumer would contemplate;

26 5. When placed in the stream of commerce, Defendants' Contaminated
27 Baby Foods were unreasonably dangerous in that they were hazardous and posed a risk of
28 neurodevelopmental disorders and other serious illnesses when used in a reasonably anticipated

1 manner;

2 6. When placed in the stream of commerce, Defendants' Contaminated
3 Baby Foods contained unreasonably dangerous design defects and were not reasonably safe
4 when used in a reasonably anticipated or intended manner;

5 7. Defendants, by design, did not conduct adequate post-marketing
6 surveillance of their Contaminated Baby Food products which would have alerted the public to
7 risks; and

8 8. Defendants did not sufficiently test, investigate, or study their
9 Contaminated Baby Foods and, specifically, the ability for those foods to expose babies to
10 Toxic Heavy Metals;

11 9. Defendants could have employed safer alternative designs and
12 formulations for Contaminated Baby Foods, such as ensuring the baby food did not have any
13 detectable level of Toxic Heavy Metal.

14 10. Defendants did not sufficiently test, investigate, or study their
15 Contaminated Baby Foods and, specifically, the content of Toxic Heavy Metals in the
16 ingredients used to manufacture the foods and/or the finished products; and

17 11. Exposure to the Toxic Heavy Metals in Contaminated Baby Foods
18 presents a risk of harmful effects that outweigh any potential utility stemming from the use of
19 the products;

20 217. Defendants knew or should have known that their products contained detectable
21 levels of heavy metals that created an unreasonable risk of harm to children who consumed their
22 products.

23 218. At all relevant times, the Defendants knew or should have known that the
24 Products were unreasonably dangerous and defective when put to their reasonably anticipated
25 use.

26 219. As a proximate result of Defendants' negligence, Plaintiff has been injured,
27 sustained severe and permanent pain, suffering, disability, impairment, loss of enjoyment of
28 life, economic loss, and damages including, but not limited to past and future medical expenses,

1 lost income, and other damages.

2 220. **WHEREFORE**, Plaintiff respectfully requests this Court enter judgment in
3 Plaintiff's favor for damages, together with interest, costs herein incurred, attorneys' fees and
4 all such other and further relief as this Court deems just and proper.

5 **JURY TRIAL DEMAND**

6 221. Plaintiff demands a trial by jury on all the triable issues within this pleading.

7 **PRAYER FOR RELIEF**

8 222. WHEREFORE, Plaintiff requests that the Court enter judgment in Plaintiff's
9 favor and against the Defendants for:

- 10 a. actual or compensatory damages in such amount to be determined at trial and
11 as provided by applicable law;
12 b. exemplary and punitive damages sufficient to punish and deter the
13 Defendants and others from future wrongful practices;
14 c. pre-judgment and post-judgment interest;
15 d. costs including reasonable attorneys' fees, court costs, and other litigation
16 expenses; and
17 e. any other relief the Court may deem just and proper.

18
19 Dated: January 31, 2025

Respectfully submitted,
WISNER BAUM, LLP

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